

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: February 13, 2003

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA02-0128 for Variance

PROPOSAL: The applicant requests approval of a setback Variance to allow a portion of a proposed addition to an existing one-story single-family residence to be located in a side yard setback area on property zoned 125-E4-20,000 District.

LOCATION: The project is located in the Red Hill area of North Tustin, west of Skyline Drive at 1742 Lerner Lane, Santa Ana. Third Supervisorial District.

APPLICANT: Terry and Gloria Tuchman, property owners

STAFF William V. Melton, Project Manager

CONTACT: Phone: (714) 834-2541 FAX: (714) 667-8344

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA02-0128 for Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject property is an irregular shaped 20,000 square feet parcel, developed with a one-story, 3,028 square feet single-family dwelling constructed in 1975. The lot is part of Tract 5413, which recorded in 1965. The site's 125-E4-20,000 (Small Estates, 125 feet minimum lot width, 20,000 square feet minimum lot area) was established in 1951. The E4 zone has a front setback requirement of 30 feet, a rear setback requirement of 25 feet and side yard setback requirements of 10 percent of the average lot width, which for this lot is 13 feet from the property line. The existing structure is setback 30 feet from the front property line, 65 feet from the rear property line, 20 feet from the side property line to the west and 13 feet from the side property line to the east. The applicant proposes to construct an addition to the kitchen at the rear of the home and an addition to the master bedroom on the east side of the home. The addition to the master bedroom was determined to be 8 feet from the east side property line and the applicant has requested approval of a Variance to allow a portion of the proposed one-story addition to be located 8 feet from the side property line.

Staff notes that the applicant was issued a building permit (permit number RS023086) for the proposed additions on November 20, 2002. The building permit contained a note on the *Zoning Plan Check List* dated September 26, 2002 stating "Prior to zoning approval, applicant shall demonstrate that the 13' side yard setback on the left is met." Plans submitted to planning staff in the Development Processing Center showed a dimension of 13 feet for the left (east) side yard and planning staff approved the plans for

zoning on November 20, 2002. During a site inspection, the building inspector determined that a portion of the bedroom addition appeared to be closer than the required 13 feet from the side property line. Further checks determined that the corner of the bedroom addition was setback only 8 feet from the property line, not the 13 feet shown on the building permit plans. Acknowledging the addition under construction did not conform to the E4 District site development regulations, the applicant filed for this Variance on December 9, 2002.

SURROUNDING LAND USE:

Direction	Zoning District	Existing Land Use
Project Site	125-E4-20,000	Residential – Single-family dwelling
North	125-E4-20,000	Residential – Single-family dwelling
South	125-E4-20,000	Residential – Single-family dwelling
East	125-E4-20,000	Residential – Single-family dwelling
West	125-E4-20,000	Residential – Single-family dwelling



REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to the North Tustin Advisory Committee (NTAC) and the Foothill Community Association. As of the writing of this staff report, no comments raising issues with the project have been received. NTAC approved the proposal at a January 15, 2003 meeting (Exhibit 2). The Foothill Community Association did not submit comments.

CEQA COMPLIANCE:

The proposed project is Categorically Exempt (Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

The subject site's E4 Estate zone was established in selected areas of the County to provide for larger lots with greater side and front setbacks than the standard R1 residential zone. The purpose of the E4 zone is to provide for more open space between lots and between development and the street. The existing residence was constructed in conformance with all the E4 zone's site development standards. The proposed addition's 5-foot encroachment into the side yard setback represents 15 percent (57.4 square feet) of the total 391 square feet of the addition and only 4 percent of the total east side yard setback area square footage of 1,414 square feet. The setback of 8 feet proposed from the east property line together with the west side's 20-foot setback represents an average side yard setback of 14 feet for the property. The setback proposed would seem to conform to the purpose of the E4 District's greater setback standards.

The property most affected by this variance request is the adjacent property to the east at 1772 Lerner Lane (see air photos in Exhibit 2). The applicant submitted a letter detailing the variance request that was signed by the adjacent property owner. According to the applicant, the adjacent property had no objections to the proposed variance.

There appears to be no issues with the proposal and the variance request could be approved. However, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.

2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of opinion that the Zoning Administrator is able to make these two special variance findings and approve the proposal. The special circumstances for approving the variance requested are in Appendix A, Finding No.7. In conclusion, staff is of the opinion that the variance requested is minor in nature and that the requirement for greater setbacks in the E4 District is not compromised. Staff supports the applicant's request and makes a recommendation as follows.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA02-0128 for Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief
CPSD/Site Planning Section

WVM

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APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation with adjacent property owner's signature
2. NTAC minutes of the January 15, 2003 meeting
3. Air photos and Site Photos
4. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Dept.